

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

v.

JOHN DOE ("MIKHAIL"),

aka GUIRGUIS MIKHAIL,

aka GUIRGUIS E. MIKHAIL,

aka GUIRGUIS E. MIKHAIL,

aka MIKHAIL GUIRGUIS,

aka MIKHAIL E. GUIRGUIS,

aka DANIEL PHILIP,

aka AYMAN IBRAHIM KHALIL,

Defendant

CRIMINAL NO.

10-10428-RGS

VIOLATIONS:

18 U.S.C. §1029 (Access Device Fraud)

18 U.S.C. §1344 (Bank Fraud)

FORFEITURE ALLEGATION:

18 U.S.C. §982

18 U.S.C. §1029

INDICTMENT

The Grand Jury charges:

At times relevant to the charges in this Indictment:

1. The defendant, JOHN DOE (referred to herein as "MIKHAIL"), aka GUIRGUIS MIKHAIL, aka GUIRGUIS E. MIKHAIL, aka GUIRGUIS E. MIKHAIL, aka MIKHAIL GUIRGUIS, aka MIKHAIL E. GUIRGUIS, aka DANIEL PHILIP, aka AYMAN IBRAHIM KHALIL is an individual who resided or was physically present in Massachusetts.

2. MIKHAIL, whose true identity is not known, has used the names Guirguis Mikhail, Guirguis E. Mikhail, Guirguis E. Mikhail, Mikhail Guirguis, Mikhail E. Guirguis, Daniel Philip, and Ayman Ibrahim Khalil. MIKHAIL used one or more of these names in connection with the activities addressed herein.

THE SCHEME TO DEFRAUD

3. Beginning in or about May 2008 and continuing through at least August 2008, MIKHAIL engaged in a scheme to defraud and obtain money and property of value from banks

and merchant credit card processing institutions through a check fraud and credit card forced transaction scheme.

4. The scheme, which MIKHAIL carried out in Massachusetts and elsewhere, involved MIKHAIL first registering the names of sham businesses as corporations with the secretary of state's office. Then, using those business names, MIKHAIL opened commercial checking accounts at multiple banks within the state. MIKHAIL also opened, in the businesses' names, credit card merchant accounts with credit card processing companies, giving him the ability to carry out credit card transactions in the name of his sham businesses.

5. Once all bank and credit card accounts were in place, over a span of several days, MIKHAIL:

- rapidly deposited in the businesses' checking accounts bad checks drawn on closed or unfunded accounts, and quickly withdrew from the checking accounts the maximum amounts available; and
- rapidly forced through the businesses' merchant accounts credit transactions using credit and debit card (together, "credit card") numbers that were either fraudulently obtained, expired, or tied to closed or unfunded accounts, and quickly withdrew the sums made available through these forced transactions.

6. The fraud at issue involved the use of "forced" credit card transactions, which are used from time to time in ordinary business transactions. Ordinarily, when a merchant swipes a credit card, a computerized inquiry is performed to determine whether the credit card account is valid; if the account is closed, the computerized inquiry reveals that the credit card is not valid. Should a merchant choose to go forward with the transaction in the face of a notice of invalidity,

the merchant may type in an authorization number to permit (i.e., to “force”) the charge to go through. In so doing, the merchant agrees to assume the risk of loss in the transaction. When these types of transactions occur, the third-party credit card processor, in reliance on a merchant’s authorization, may permit the merchant access to cash amounts associated with the credit card transaction. As noted below, the forced transaction procedure is vulnerable to abuse. In the course of a day or two, a criminal may process scores of credit card charges by way of forced authorizations, quickly withdraw the cash proceeds, and then flee.

Manner and Means

7. On or about July 9, 2008, MIKHAIL, using the name Mikhail Guirguis, registered with the Massachusetts Secretary of the Commonwealth, Corporations Division, a corporation named “Mass Wholesale Carpet Inc.”

8. On or about July 15, 2008, MIKHAIL, using the name Mikhail Guirguis, registered with the Massachusetts Secretary of the Commonwealth, Corporations Division, a corporation named “Saugus Windows & Doors Inc.”

9. In or about July 2008, MIKHAIL opened checking accounts at a number of federally insured financial institutions in Massachusetts, including the following:

| Bank | Name on Account | Account Number | Date Opened |
|-----------------------------|-------------------------------|-----------------------|--------------------|
| Citizens Bank Boston, MA | Mikhail Guirguis | *****1967 | 7/16/08 |
| Citizens Bank Boston, MA | Mass Wholesale Carpet Inc. | *****0552 | 7/16/08 |
| Citizens Bank Boston, MA | Mass Wholesale Carpet Inc. | *****0560 | 7/16/08 |
| Saugusbank Saugus, MA | Mass Wholesale Carpet Inc. | ****3862 | 7/17/08 |

| | | | |
|------------------------------|--------------------------------|-----------|---------|
| Eastern Bank, Saugus, MA | Mass Wholesale Carpet Inc. | *****8215 | 7/17/08 |
| Sovereign Bank Boston, MA | Saugus Windows & Doors Inc. | *****0520 | 7/22/08 |

10. In or about August 2008, MIKHAIL, knowingly and fraudulently using the false identity of "Daniel Philip," opened, on behalf of Mass Wholesale Carpet Inc. and Saugus Windows & Doors Inc., merchant credit card processing accounts with the following merchant credit card processing companies:

| Merchant Service Company | Name on Account | Date Opened |
|---|--------------------------------|--------------------|
| Elavon Knoxville, TN | Saugus Windows & Doors Inc. | 8/5/08 |
| First Data Merchant Services Melville, NY | Saugus Windows & Doors Inc. | 8/7/08 |
| First Data Merchant Services Melville, NY | Mass Wholesale Carpet Inc. | 8/7/08 |

11. In addition, in opening the merchant credit card processing accounts, MIKHAIL identified the following as bank accounts into which the merchant credit card processing companies would deposit funds generated through credit card transactions:

| Merchant Service Company | Name on Merchant Account | Bank Identified | Bank Acct. Name and Number |
|---------------------------------|---------------------------------|------------------------|---|
| Elavon Knoxville, TN | Saugus Windows & Doors Inc. | Citizens Bank | Mass Wholesale Carpet Inc. (identified in account application as Saugus Windows & Doors Inc.) *****0560 |

| | | | |
|---|--------------------------------|-----------------|--|
| First Data Merchant Services Melville, NY | Saugus Windows & Doors Inc. | Eastern Bank | Mass Wholesale Carpet Inc. *****8215 |
| First Data Merchant Services Melville, NY | Mass Wholesale Carpet Inc. | Bank of America | Mass Wholesale Carpet Inc. *****1221 |

12. MIKHAIL conducted check fraud and credit card forced transaction activity over a number of days in August 2008. The check fraud and credit card forced transaction activity included the following transactions:

a. Merchant Credit Card Transactions:

- i. On or about August 13, 14, and 15, 2008, MIKHAIL or someone acting on his behalf processed multiple credit card transactions for Mass Wholesale Carpet Inc. through First Data, totaling over \$36,000. These transactions used credit card numbers for closed or otherwise unauthorized credit card accounts, and the transactions were forced through with the use of an authorization code. In connection with these transactions, amounts were deposited through the merchant automatic clearing house ("ACH") into Bank of America account no. *****1221.
- ii. On or about the same dates, MIKHAIL or someone acting on his behalf processed multiple credit card transactions for Saugus Windows & Doors Inc. through First Data, totaling over \$35,000. These transactions used credit card numbers for closed or otherwise unauthorized credit card accounts, and the transactions were forced through with the use of an authorization code. In connection with these transactions, amounts were deposited through the merchant ACH into Eastern Bank account no. *****8215.

iii. On or about August 13, 2008, MIKHAIL or someone acting on his behalf processed multiple credit card transactions for Saugus Windows & Doors Inc. through Elavon, totaling over \$10,000. These transactions used credit card numbers for closed or otherwise unauthorized credit card accounts, and the transactions were forced through with the use of an authorization code. In connection with these transactions, amounts were deposited through the merchant ACH into Citizens Bank account no.

*****0560.

b. Check Fraud:

i. Between on or about August 13 and August 21, 2008, MIKHAIL deposited worthless checks into the commercial and personal accounts he had opened at Massachusetts federally insured financial institutions and, while those deposits were pending and prior to the bad checks being returned unpaid, MIKHAIL withdrew an aggregate total of over \$37,000 against those deposits.

COUNTS 1-7

ACCESS DEVICE FRAUD (18 U.S.C. §1029(a)(2))

(use of unauthorized devices)

13. The Grand Jury realleges and incorporates by reference Paragraphs 1-12 of the Indictment, and further charges that:

14. On or about the dates set forth below, in the District of Massachusetts and elsewhere, the defendant herein,

JOHN DOE,

aka GUIRGUIS MIKHAIL,

aka GUIRGUIS E. MIKHAIL

aka GUIGUIS E. MIKHAIL,

aka MIKHAIL GUIRGUIS,

aka MIKHAIL E. GUIRGUIS,

aka DANIEL PHILIP,

aka AYMAN IBRAHIM KHALIL,

knowingly and with intent to defraud used one or more unauthorized access devices through the merchant accounts identified below and, by such conduct, obtained something of value aggregating \$1,000 or more during a one-year period, the same conduct affecting interstate or foreign commerce:

| Count | Date | Total Amount of Forced Transactions | Account |
|--------------|-------------|--|---|
| 1. | 8/13/08 | \$11,435.21 | First Data account for Saugus Windows & Doors Inc. |

| | | | |
|----|---------|-------------|--|
| 2. | 8/13/08 | \$12,210.09 | Elavon account for Saugus Windows & Doors Inc. |
| 3. | 8/13/08 | \$12,554.35 | First Data account for Mass Wholesale Carpet Inc. |
| 4. | 8/14/08 | \$12,158.73 | First Data account for Saugus Windows & Doors Inc. |
| 5. | 8/14/08 | \$10,411.58 | First Data account for Mass Wholesale Carpet Inc. |
| 6. | 8/15/08 | \$12,244.55 | First Data account for Saugus Windows & Doors Inc. |
| 7. | 8/15/08 | \$13,680.07 | First Data account for Mass Wholesale Carpet Inc. |

All in violation of Title 18, United States Code, Sections 1029(a)(2) and 2.

COUNT 8

ACCESS DEVICE FRAUD (18 U.S.C. §1029(a)(3))

(possession of unauthorized devices)

15. The Grand Jury realleges and incorporates by reference Paragraphs 1-12 of the Indictment, and further charges that:

16. On or about August 13, 14, and 15, 2008, in the District of Massachusetts and elsewhere, the defendant herein,

JOHN DOE,

aka GUIRGUIS MIKHAIL,

aka GUIRGUIS E. MIKHAIL

aka GUIRGUIS E. MIKHAIL,

aka MIKHAIL GUIRGUIS,

aka MIKHAIL E. GUIRGUIS,

aka DANIEL PHILIP,

aka AYMAN IBRAHIM KHALIL,

knowingly and with intent to defraud possessed fifteen or more counterfeit and unauthorized access devices, the same conduct affecting interstate or foreign commerce.

All in violation of Title 18, United States Code, Sections 1029(a)(3) and 2.

COUNTS 9-22

BANK FRAUD (18 U.S.C. §1344)

17. The Grand Jury realleges and incorporates by reference Paragraphs 1-12 of the Indictment, and further charges that:

18. On or about the dates set forth below, in the District of Massachusetts and elsewhere, the defendant herein,

JOHN DOE,

aka GUIRGUIS MIKHAIL,

aka GUIRGUIS E. MIKHAIL

aka GUIRGUIS E. MIKHAIL,

aka MIKHAIL GUIRGUIS,

aka MIKHAIL E. GUIRGUIS,

aka DANIEL PHILIP,

aka AYMAN IBRAHIM KHALIL,

knowingly executed and attempted to execute a scheme and artifice to defraud a federally insured financial institution, and to obtain moneys, funds, and assets under the custody and control of a federally insured financial institution by means of materially false and fraudulent pretenses, representations and promises, by depositing worthless checks and quickly withdrawing funds before the worthless checks were returned unpaid, to wit:

| Count | Date | Bank | Amount of Check Deposited |
|--------------|-------------|----------------|----------------------------------|
| 9. | 8/13/08 | Sovereign Bank | \$3,890.00 |
| 10. | 8/14/08 | Eastern Bank | \$3,850.47 |
| 11. | 8/14/08 | Eastern Bank | \$4,111.50 |
| 12. | 8/14/08 | Sovereign Bank | \$3,850.00 |
| 13. | 8/14/08 | Citizens Bank | \$2,900.00 |
| 14. | 8/14/08 | Citizens Bank | \$4,125.00 |
| 15. | 8/14/08 | Citizens Bank | \$3,950.50 |
| 16. | 8/14/08 | Citizens Bank | \$3,890.50 |
| 17. | 8/14/08 | Citizens Bank | \$4,350.47 |
| 18. | 8/15/08 | Eastern Bank | \$9,000.00 |
| 19. | 8/18/08 | Eastern Bank | \$9,800.00 |
| 20. | 8/18/08 | Saugusbank | \$9,500.64 |
| 21. | 8/18/08 | Saugusbank | \$4,852.00 |
| 22. | 8/21/08 | Saugusbank | \$7,645.00 |

All in violation of Title 18, United States Code, Sections 1344 and 2.

FORFEITURE ALLEGATIONS

CRIMINAL FORFEITURE (18 U.S.C. §982 and 18 U.S.C. §1029)

The Grand Jury further alleges that:

19. Upon conviction of any of the offenses alleged in Counts One through Twenty-Two of this Indictment, the defendant herein,

JOHN DOE,

aka GUIRGUIS MIKHAIL,

aka GUIRGUIS E. MIKHAIL

aka GUIRGUIS E. MIKHAIL,

aka MIKHAIL GUIRGUIS,

aka MIKHAIL E. GUIRGUIS,

aka DANIEL PHILIP,

aka AYMAN IBRAHIM KHALIL,

shall forfeit to the United States, pursuant to 18 U.S.C. §982(a)(2), any property constituting, or derived from, proceeds the defendant obtained directly or indirectly, as a result of such violations. Further, upon conviction of any of the offenses alleged in Counts One through Eight of this Indictment, the defendant shall forfeit to the United States, pursuant to 18 U.S.C. §1029(c)(1)(C), any personal property used or intended to be used to commit such offenses.

20. If any of the forfeitable property, as described in paragraph 19 above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;

- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty,

it is the intent of the United States, pursuant to 21 U.S.C. §853(p), as incorporated by 18 U.S.C. §982(b), to seek forfeiture of any other property of the defendant up to the value of the property described in subparagraphs a through e above.

All pursuant to Title 18, United States Code, Sections 982 and 1029, and Rule 32.2, Federal Rules of Criminal Procedure.

A TRUE BILL

Anaiva Bayaka
FOREPERSON OF THE GRAND JURY

[Signature]
ASSISTANT U.S. ATTORNEY

DISTRICT OF MASSACHUSETTS; December __, 2010.

Returned into the District Court by the Grand Jurors and filed.

[Signature]
DEPUTY CLERK